

Appendix J

Arizona Corporation Commission Documents

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COPY

BEFORE THE ARIZONA CORPORATION COMMISSION
DOCKETED

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CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER

DOCKETED BY

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IN THE MATTER OF SERVICE QUALITY
ISSUES, ANALYSIS OF TRANSMISSION
ALTERNATIVES AND PROPOSED PLAN OF
ACTION IN THE SANTA CRUZ ELECTRIC
DIVISION OF CITIZENS UTILITIES COMPANY.

DOCKET NO. E-01032A-99-0401

DECISION NO. 62011

OPINION AND ORDER

DATE OF HEARING: September 8, 1999

PLACE OF HEARING: Phoenix, Arizona

PRESIDING OFFICER: Barbara M. Behun

APPEARANCES: Mr. Craig A. Marks, Associate General Counsel, Citizens
Utilities Company, on behalf of Citizens Utilities Company;

Mr. Walter W. Meek, President, Arizona Utility Investors
Association; and

Mr. Peter Breen, Staff Attorney, on behalf of the Utilities
Division of the Arizona Corporation Commission.

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the
Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On October 20, 1998, Citizens Utilities Company, its divisions and subsidiaries
("Citizens") filed with Docket Control of the Commission a notice of intent to form a holding
company.¹

2. Decision No. 61383 (January 29, 1999) directed Citizens to file an analysis of
alternatives and Plan of Action to rectify the service problems in the Santa Cruz Electric Division, for
approval at Open Meeting, and ordered that a hearing be held regarding Citizens' request.

3. By Procedural Order dated February 24, 1999, the holding company matter was

¹ The application was filed as Docket Nos. E-01032A-98-0611, *et al.*

1 scheduled for hearing on May 10, 1999.

2 4. Upon request by Citizens, the hearing was continued to September 8, 1999.

3 5. On October 27, 1998, the City of Nogales, Arizona filed a Complaint against Citizens
4 concerning electrical outages in Nogales, Arizona.

5 6. Decision No. 61793 (June 29, 1999) dismissed the Complaint, with direction that
6 Citizens would provide a planned service date and cost-benefit analysis for system components of a
7 second transmission line in the Plan of Action to be filed in compliance with Decision No. 61383.

8 7. Intervention has been granted to the Arizona Payphone Association, the Residential
9 Utility Consumer Office, and the Arizona Utility Investors Association ("AUIA").

10 8. On June 6, 1999, Citizens filed a letter in this docket, indicating that the proposed
11 separation would not take place.

12 9. On June 16, 1999, Citizens requested clarification of procedural issues, due to the
13 cancellation of the anticipated separation.

14 10. A Procedural Conference was held on July 12, 1999.

15 11. By Procedural Order dated July 15, 1999, the holding company docket was closed and
16 this docket opened to resolve the Commission's concerns with respect to Citizens' Santa Cruz
17 Electric Division. The hearing remained scheduled for September 8, 1999.

18 12. On August 9, 1999, the Commission's Utilities Division Staff ("Staff") and Citizens
19 filed a Settlement Agreement regarding Citizens' Plan of Action.

20 13. On August 20, 1999, Staff and Citizens filed testimony in support of the Settlement
21 Agreement.

22 14. A hearing was held on September 8, 1999, before a duly appointed Hearing Officer of
23 the Commission, at which Citizens and Staff appeared through counsel and presented evidence. The
24 AUIA appeared through its President, but did not present evidence.

25 15. The Settlement Agreement commits Citizens to a Plan of Action that is in compliance
26 with Decision Nos. 61383 and 61793 and incorporates Staff recommendations contained in pre-filed
27 testimony for those proceedings. The Settlement Agreement states that the Plan of Action includes
28 Citizens' submittal of April 15, 1999, as supplemented on May 7, 1999 and July 13, 1999.

1 16. The Settlement Agreement requires Citizens to build a second transmission line to
2 serve its customers in Santa Cruz County by December 31, 2003.

3 17. Citizens has agreed to file for a Certificate of Compatibility for the new line by
4 November 11, 2000. The scheduled in-service date for the line is to be accelerated if an
5 Environmental Impact Statement is not required. The Settlement Agreement also establishes a
6 framework for penalties applicable if Citizens fails to perform in accordance with its proposed
7 schedule.

8 18. If Citizens sells or divests its Santa Cruz Electric Division, the Settlement Agreement
9 requires the acquiring entity to fulfill Citizens' obligations for the second transmission line as a
10 condition of the Commission's approval of the sale.

11 19. The Settlement Agreement preserves Staff's right to challenge any capital expenditure
12 Citizens accrues in the course of constructing its Plan of Action for the Santa Cruz Electric Division
13 filed for these proceedings. Staff has already noted some expenditure concerns in prior testimony.

14 20. The parties agreed that a ruling on expenditures should be postponed until Citizens
15 files to recover its investment cost from customers.

16 21. As agreed to by the parties, Item No. 7 in the Settlement Agreement should refer to
17 Docket No. E-1032A-99-0401, not Docket No. E-1032A-99-041.

18 CONCLUSIONS OF LAW

19 1. Citizens is an Arizona public service corporation within the meaning of Article XV,
20 Section 2, of the Arizona Constitution and A.R.S. § 40-246.

21 2. The Commission has jurisdiction over Citizens and over the subject matter of this
22 docket.

23 3. Citizens' Plan of Action as filed on April 15, 1999, and supplemented on May 7, 1999
24 and July 13, 1999, complies with Decision Nos. 61383 and 61793.

25 4. The Settlement Agreement filed by the parties on August 9, 1999 is in the public
26 interest and will be adopted by the Commission, with the correction as indicated in Findings of Fact
27 No. 21.

28 ...


ORDER

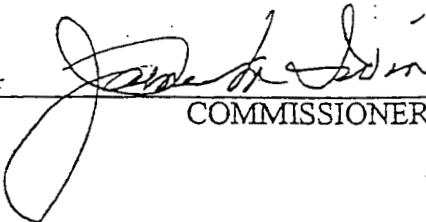
IT IS THEREFORE ORDERED the Settlement Agreement filed on August 9, 1999 by Commission Staff and Citizens Utilities Companies shall be, and is hereby, adopted by the Commission, with the correction indicated in Findings of Fact No. 21.

IT IS FURTHER ORDERED that Citizens Utilities Company is ordered to comply with the requirements of the Settlement Agreement.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

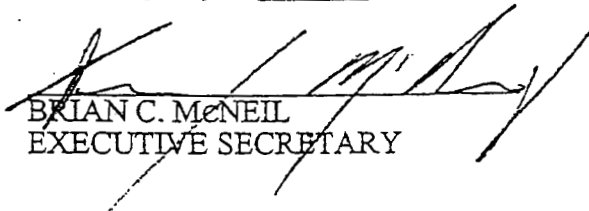
BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


CHAIRMAN


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 2nd day of November, 1999.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT
BMB:dap

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **CARL J. KUNASEK**
3 **CHAIRMAN**

4 **JIM IRVIN**
5 **COMMISSIONER**
6 **WILLIAM A. MUNDELL**
7 **COMMISSIONER**

8 **IN THE MATTER OF SERVICE QUALITY**
9 **ISSUES, ANALYSIS OF TRANSMISSION**
10 **ALTERNATIVES AND PROPOSED PLAN OF**
11 **ACTION THE SANTA CRUZ ELECTRIC**
12 **DIVISION OF CITIZENS UTILITIES**
13 **COMPANY**

DOCKET NO. E-01032A-99-0401

14 **SETTLEMENT AGREEMENT**
15 **BETWEEN COMMISSION STAFF**
16 **AND CITIZENS UTILITIES**
17 **COMPANY**

18 Citizens Utilities Company ("Citizens") and the Arizona Corporation
19 Commission Staff ("Staff") agree as follows concerning Citizens' Plan of Action to
20 address service quality issues in its Santa Cruz Electric Division, Citizens' Analysis
21 of Transmission Alternatives and Citizens' Schedule to construct a second
22 transmission line to serve its Santa Cruz Electric Division Customers.

23 1. Citizens' Plan of Action, as filed on April 15th, 1999, and
24 supplemented on May 7th, 1999, and July 13th, 1999, complies with Decision Nos.
25 61383 and 61793.

26 2. Citizens will proceed with planning, permitting, and constructing a
27 second transmission line to serve its Santa Cruz Electric Division Customers,
28 subject to the siting process and schedule that Citizens filed on July 13th, 1999.
Presently the preferred alternative is the Bicknell-Valencia route, but the parties
recognize that completion of transmission studies and environmental approvals
may identify another route as the route to be constructed.

3. Citizens will file for a Certificate of Environmental Compatibility by
November 11, 2000. Citizens will endeavor to place the second transmission line
in service by four years after the date of a Commission Order approving this
Settlement Agreement. If an Environmental Impact Statement is not needed,

1 Citizens will endeavor to achieve an in-service date of 39 months after the date of
2 a Commission Order approving this Settlement Agreement.

3 4. Delay Penalties

4 a. If the second transmission line is not placed in service by
5 December 31, 2003, then Citizens will owe a penalty of \$30,000/ month for
6 each full month of delay after December 31, 2003. This penalty represents
7 liquidated damages for Citizens' failure to fulfil its obligations under this
8 Agreement and will be for the benefit of Citizens' Arizona electric
9 customers. Citizens will compute and owe the penalty no later than 30
10 days after the transmission line's actual in-service date. If the transmission
11 line is not in service by December 31, 2004, then on January 31, 2005,
12 Citizens will compute and owe the accrued penalty for the previous year.
13 Citizens' obligation will then continue in a like manner on each January 31,
14 thereafter, until the transmission line is actually in service. In the year the
15 transmission line is actually placed in service, Citizens will then compute
16 and owe the penalty no later than 30 days after the transmission line's
17 actual in-service date.

18 b. No later than each date in the preceding paragraph by which
19 Citizens is to compute and owe a penalty, Citizens will file with the
20 Commission its proposal as to which of Citizens' electric customers will
21 receive the benefit of the penalty amount and how the benefit will be
22 distributed (e.g., bill credit, credit to PP&AC bank balance, refund, or other
23 methodology). The Commission will then determine by Order the
24 appropriate recipients and distribution methodology.

25 c. If Citizens believes that circumstances beyond its reasonable
26 control (such as an unavoidable delay in obtaining a Certificate of
27 Environmental Compatibility, court injunction, or other good cause, are
28 responsible for the delay, Citizens may apply -- no later than December 31,
29 2003 -- with the Commission to delay the December 31, 2003, date or to

1 waive the penalty. If Citizens makes such a filing, Staff and any other
2 interested party may file a response either supporting, not objecting to, or
3 objecting to Citizens' application. The Commission will then determine the
4 appropriate relief, if any.

5 5. The Commission should condition any sale or divestiture of Citizens'
6 Santa Cruz Electric Division upon the acquiring entity's satisfactory commitment
7 that it will fulfill Citizens' obligations set forth in paragraphs 2, 3 and 4 of this
8 Agreement.

9 6. Staff's signature on this Settlement Agreement in no way implies that
10 any capital expenditure that Citizens has made or will make in Santa Cruz County
11 was or is necessarily the least-cost option to resolve Santa Cruz County electric
12 service issues. In a future Citizens rate case, Staff may challenge the prudence
13 of any particular capital expenditure made for that purpose. Other than as
14 expressly set forth in this Settlement Agreement, Citizens' signature in no way
15 implies that Citizens agrees with the statements made in Staff's testimony dated
16 July 16, 1999. Citizens or a successor may take any position concerning the
17 prudence of any particular capital expenditure made in Santa Cruz County to
18 resolve Santa Cruz County electric service issues.

19 7. This Agreement resolves all outstanding issues pending in Docket No.
20 E-01032A-99-041⁴⁰¹. If this Agreement is not accepted by the Commission, none of
21 the Parties compromise or otherwise waive the positions they have taken or may
22 take on any of the issues addressed in their prefiled testimony to date.

23 8. The provisions of this Agreement are not severable and are effective
24 only after the Commission enters an order approving this Agreement without
25 modification. If this Agreement is not approved by the Commission in the form
26 submitted, it is deemed withdrawn, and its stipulations are void.

27 9. The Parties urge the Commission to approve this Agreement.

28 **Signatures follow next page:**

1 DATED August 9, 1999

Citizens Utilities Company

By: Daniel J. McCarthy
CAM

Title: Vice President

Staff of the Arizona Corporation Commission

By: Ray T. Williamson
Title: Acting Director
Utilities Division

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

Arizona Corporation Commission

DOCKETED

JAN 15 2002

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CP

IN THE MATTER OF THE JOINT)
APPLICATION OF TUCSON ELECTRIC)
POWER COMPANY AND CITIZENS)
COMMUNICATIONS COMPANY FOR A)
CERTIFICATE OF ENVIRONMENTAL)
COMPATIBILITY FOR A PROPOSED 345 KV)
TRANSMISSION LINE SYSTEM FROM)
TUCSON ELECTRIC POWER COMPANY'S)
EXISTING SOUTH 345 KV SUBSTATION)
IN SEC. 36, T.16S., R.13E., SAHUARITA,)
ARIZONA, TO THE PROPOSED GATEWAY)
345/115 KV SUBSTATION IN SEC. 12, T.24S.,)
R.13E., NOGALES, ARIZONA WITH A 115 KV)
INTERCONNECTION TO THE CITIZENS)
COMMUNICATIONS COMPANY'S 115 KV)
VALENCIA SUBSTATION IN NOGALES,)
ARIZONA, WITH A 345 KV TRANSMISSION)
LINE FROM THE PROPOSED GATEWAY)
SUBSTATION SOUTH TO THE INTER-)
NATIONAL BORDER IN SEC. 13, T.24S.,)
R.13E.)

DOCKET NOS. L-00000C-01-0111
L-00000F-01-0111

DECISION NO.

64356

The Arizona Corporation Commission ("Commission") has conducted its review, as prescribed by A.R.S. § 40-360.07. Pursuant to A.R.S. § 40-360.07(B), the Commission, in compliance with A.R.S. § 40-360.06 and in balancing the broad public interest, the need for an adequate, economical and reliable supply of electric power with the desire to minimize the effect thereof on the environment and ecology of this state:

The Commission finds and concludes that the Certificate of Environmental Compatibility ("CEC") issued by the Arizona Power Plant and Transmission Line Siting Committee is granted as modified and amended by this Order.

DECISION NO. 64356

1 The Commission modifies Condition Number 6 as follows:

- 2 6. Applicants shall implement the mitigation measures and impact avoidance
3 recommendations set forth in the Harris Report and those recommended in the
4 additional Harris Report studies. Applicants shall also continue to completion those
5 studies that are ongoing as identified in the Harris Report.

6 The Commission modifies Condition Number 8 as follows:

- 7 8. Applicants shall retain an archaeologist satisfactory to the State Historical
8 Preservation Office (SHPO). The archaeologist is to be on site during construction
9 activities to advise applicant in connection with any additional archeological and
10 related studies that may be required and to manage cultural and historical
11 preservation efforts for archaeological sites that may be affected by the construction
12 of the Project transmission lines. The archaeologist shall meet and confer with
13 representatives of local Native American Nations and local historical societies to
14 determine any sensitive areas and determine if and how they can be avoided or
15 mitigated.

16 The Commission modifies Condition Number 9 as follows:

- 17 9. Applicants shall retain a biologist satisfactory to the Arizona Game and Fish
18 Department. The biologist is to be on-site during construction activities in
19 connection with any additional biological and related studies that may be required
20 and to advise Applicants in connection with mitigation efforts for any endangered,
21 threatened and sensitive species that may be affected by the construction of the
22 Project transmission line.

23 The Commission modifies Condition Number 11 as follows:

- 24 11. In the final design and construction of the transmission line, Applicants shall:
25 (a) use structures of a non-reflective nature that are to the greatest extent possible
26 consistent with the terrain and vegetation through which they are installed.
27 (b) use non-specular conductors and dulled structures of a self-weathering
28 material and color suitable to the terrain and vegetation

1 (c) use monopoles except in locations where use of lattice towers would
2 minimize detrimental impacts upon the total environment.

3 (d) When making specific easement routing decisions as to the ultimate pathway
4 to be followed for the construction of the transmission line, the applicant
5 shall make the minimization of any detrimental impact upon the total
6 environment the deciding factor as between different pathways within the
7 corridor approved by this decision.

8 The Commission modifies Condition Number 16 as follows:

9 16. Applicants shall comply with the recommendations, mitigation measures, and actions
10 to reduce or prevent environmental impact included in the EIS.

11 The Commission modifies the CEC to add the following two conditions:

12 29. The Applicants, their successor(s) or assignee(s) shall submit a self-certification letter
13 annually, identifying which conditions contained in the CEC as amended, have been
14 met. Each letter shall be submitted to the Utilities Division Director on August 1,
15 beginning in 2002, describing conditions which have been met as of June 30.
16 Attached to each certification letter shall be documentation explaining, in detail, how
17 compliance with each condition was achieved. Copies of each letter, along with the
18 corresponding documentation, shall also be submitted to the Arizona Attorney
19 General and the Directors of the Arizona Department of Environmental Quality,
20 Department of Water Resources, and Department of Commerce Energy Office.

21 30. The authority to construct facilities granted by this Commission Decision shall be
22 revoked and the associated CEC rendered null and void in its entirety if (a) the
23 Applicants, their successor(s) or assignee(s) legally challenge any condition herein,
24 or (b) fail to comply with any condition herein as determined by the Commission.

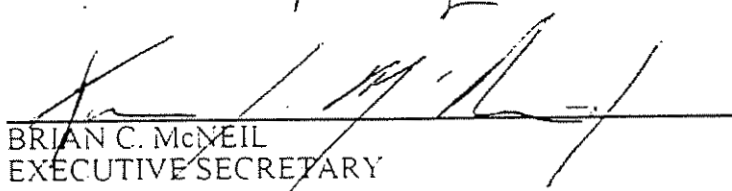
25 The Commission further modifies the CEC to add the following Ordering Paragraph:

26 The preferred alternative central route, cited in the Application at page 12, section
27 4.2.5.2, and the alternative eastern route, cited in the Application at page 13, section
28 4.2.5.3 are hereby denied.

APPROVED AS AMENDED BY ORDER OF THE
ARIZONA CORPORATION COMMISSION.

  
CHAIRMAN COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
Secretary of the Arizona Corporation Commission, have
hereunto set my hand and caused the official seal of the
Commission to be affixed at the Capitol, in the City of
Phoenix, this 15th day of January, 2002.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

BEFORE THE POWER PLANT AND TRANSMISSION
LINE SITING COMMITTEE

IN THE MATTER OF THE JOINT APPLICATION OF TUCSON ELECTRIC POWER COMPANY AND CITIZENS COMMUNICATIONS COMPANY, OR THEIR ASSIGNEE(S), FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY FOR A PROPOSED 345kV TRANSMISSION LINE SYSTEM FROM TUCSON ELECTRIC POWER COMPANY'S EXISTING SOUTH 345kV SUBSTATION IN SEC.36, T.16S., R.13E., SAHUARITA, ARIZONA, TO THE PROPOSED GATEWAY 345/115kV SUBSTATION IN SEC.12, T.24S., R.13E., NOGALES, ARIZONA, WITH A 115kV INTERCONNECT TO THE CITIZENS COMMUNICATIONS COMPANY'S 115kV VALENCIA SUBSTATION IN NOGALES, ARIZONA, WITH A 345kV TRANSMISSION LINE FROM THE PROPOSED GATEWAY SUBSTATION SOUTH TO THE INTERNATIONAL BORDER IN SEC.13, T.24S., R.13E.

Case No. 111

Docket No. L-00000C-01-0111
L-00000F-01-0111

DECISION NO. 64356

AMENDED CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY

Pursuant to notice given as provided by law, the Arizona Power Plant and Transmission Line Siting Committee (the "Committee") held public hearings in Nogales, Arizona, on May 7 and 8, 2001, and in Phoenix, Arizona, on May 17, 2001, June 11, 2001, June 18, 2001, July 16, 2001, August 14, 2001 and October 4, 2001 in conformance with the requirements of Arizona Revised Statutes Sections 40-360, *et seq.*, for the purpose of receiving evidence and deliberating on the Joint Application of Tucson Electric Power Company ("TEP") and Citizens Communications Company ("Citizens") (collectively, "Applicants") for a Certificate of Environmental Compatibility in the above-captioned case (the "Application").

DECISION NO. 64356

1 The following members or designees of members of the Committee were present for the
2 hearing on the Application:

3 Laurie A. Woodall, Esq., Chair Designee for Arizona Attorney General Janet
4 Napolitano

5 Richard Tobin Designee for the Arizona Department of Environmental
6 Quality

7 Mark McWhirter Designee for the Director of the Energy Office of the
8 Arizona Department of Commerce

9 Ray Williamson Arizona Corporation Commission ("ACC")

10 A. Wayne Smith Appointed Member

11 Jeff McGuire Appointed Member

12 Sandie Smith Appointed Member

13 Mike Whalen Appointed Member

14 Michael Palmer Appointed Member

15 Margaret Trujillo Appointed Member

16 Applicant TEP was represented by Raymond S. Heyman, Esq., of Roshka Heyman & De Wulf,
17 PLC and Marcus G. Jerden, Esq. of the TEP Legal Department. Applicant Citizens was represented
18 by Michael M. Grant, Esq., of Gallagher & Kennedy. There were sixteen (16) intervenors: (1) the City
19 of Nogales, represented by Jose L. Machado, Esq., City Attorney; (2) Santa Cruz Valley Citizens Council,
20 Inc., represented by Steven J. Duffy, Esq.; (3) Santa Cruz County, represented by Holly J. Hawn, Esq., and
21 Martha S. Chase, Esq.; (4) Arizona Center for Law in the Public Interest, represented by Timothy M.
22 Hogan, Esq.; (5) Public Service Company of New Mexico, represented by Thomas H. Campbell, Esq.;
23 (6) Arizona Utility Investors Association;¹ (7) the Sonoita Crossroads Community Forum; (8) Sky Island

24
25 Intervenor Arizona Utility Investors Association did not retain counsel to represent it in these
26 proceedings. Mr. Walter M. Meek, a member of the Arizona Utility Investors Association, participated in the
proceeding. pro se.

1 Alliance: (9) Maricopa Audubon Society; (10) the Sierra Club - Rincon Group; (11) Noble E. Rose, on
2 behalf of the Green Valley Community Coordinating Council;² (12) Marshall and Lucy Magruder; (13)
3 William L. and Ellen L. Kurtz; (14) Emilio E. Falco, Ph.D., and Jean A. Titilah; (15) Jean England
4 Neubauer; and (16) the Center for Biological Diversity. In addition, the ACC Utilities Division participated
5 in this proceeding, represented by Teena Wolfe, Esq. and Janet Wagner, Esq.

6
7 At the conclusion of the hearing and deliberations, the Committee, having received and considered
8 the Application, the appearances of Applicants and all intervenors, the evidence, testimony and exhibits
9 presented by Applicants and all intervenors, the comments made by persons making limited appearances
10 and the comments of the public, and being advised of the legal requirements of Arizona Revised Statutes
11 Sections 40-360 to 40-360.13, upon motion duly made and seconded, voted to grant Applicants the
12 following Certificate of Environmental Compatibility (Case No. 111):

13 Applicants and their assignees are granted a Certificate of Environmental Compatibility authorizing
14 the construction of (i) a double circuit, 345kV transmission line running from TEP's existing South
15 Substation to the new TEP Gateway Substation; (ii) the Citizens/TEP 345kV interconnection; (iii) the new
16 Citizens' Gateway 345/115kV Substation and approximately three miles of 115kV transmission line to
17 complete the second line to Citizens' existing Valencia Substation; and (iv) approximately two miles of
18 345kV transmission line to interconnect with the Comisión Federal de Electricidad ("CFE") transmission
19 system at the United States/Mexico border as described more fully in Section 4.2 of the Application.

20 Applicants and their assignees are granted a Certificate of Environmental Compatibility for the
21 preferred 345kV westerly route (the "Preferred Route"), which is described more fully in Section 4.2.5.1
22 of the Application.
23

24
25 ² At the telephonic procedural conference held on April 30, 2001, the Green Valley Community
26 Coordinating Council withdrew its intervention.

1 Applicants and their assignees also are granted this Certificate of Environmental Compatibility for
2 construction of Citizens' 115kV line in a 1,000 foot wide corridor on either side of the alignments described
3 in the first two paragraphs of Section 4.2.5.4 of the Application together with an alternative to construct a
4 parallel single-circuit line for the final approximately 0.4 miles of the Preferred Citizens' Route.

5 In addition, Applicants and their assignees are granted this Certificate of Environmental
6 Compatibility for construction of the substation facilities, which are described more fully in Section 4.2.1.3
7 of the Application.

8 The Certificate of Environmental Compatibility is granted upon the following conditions:

- 9 1. Applicants shall obtain all required approvals and permits necessary to
10 construct the Project.
- 11 2. Applicants shall comply with all existing applicable laws, environmental
12 control standards and regulations, ordinances, master plans and
13 regulations of the United States, the State of Arizona, Pima and Santa
14 Cruz Counties, the City of Nogales, the Town of Sahuarita, the Tohono
15 O'Odham Nation, and any other governmental entities having jurisdiction.
- 16 3. As to the Preferred Route, Applicants shall construct the Project
17 transmission lines only within the corridor more fully described in Exhibit
18 1, attached hereto (the "Route Corridor").
- 19 4. Applicants shall meet and confer with landowners who are within or
20 adjacent to the Route Corridor and other interested parties in order to
21 develop a plan for specific pole locations that will mitigate the
22 environmental and visual impact of the Project transmission lines within
23 the Route Corridor.
- 24
- 25
- 26

5. Applicants shall, prior to construction of the Project transmission lines, conduct the studies recommended in the Report of The Harris Environmental Group, Inc. attached to the Joint Application as Exhibit C ("Harris Report") and attached hereto as Exhibit 2.
6. Applicants shall implement the mitigation measures set forth in the Harris Report and those recommended in the additional Harris Report studies. Applicants shall also continue to completion those studies that are ongoing as identified in the Harris Report.
7. Applicants shall file with the ACC, in this docket, the findings of the additional Harris Report studies.
8. Applicants shall retain an archaeologist to be on site during construction activities to advise them in connection with any additional archaeological studies that may be required and any mitigation efforts for archaeological sites that may be affected by the construction of the Project transmission lines. The archaeologist shall meet and confer with representatives of local tribes and historical societies to determine sensitive areas and mitigation options.
9. Applicants shall retain a biologist to be on site during construction activities in connection with any additional biological studies that may be required and to advise them in connection with any mitigation efforts for any species that may be affected by the construction of the Project transmission lines.

1 10. Applicants shall consult with the State Historic Preservation Office to
2 advise them in connection with any mitigation efforts for any historical
3 sites affected by the construction of the Project transmission lines and any
4 historical sites identified and made known to them (any information on
5 historical sites in the record of Case No. 111 is deemed known to the
6 applicant).

7 11. In the final design and construction of the transmission line.

8 Applicants shall:

- 9
- 10 (a) use structures of a non-reflective nature that are to the greatest
11 extent possible consistent with the terrain and vegetation through
12 which they are installed.
- 13 (b) use non-specular conductors and dulled structures of a self-
14 weathering material and color suitable to the terrain and
15 vegetation.

16 12. Before construction on this project may commence, the Applicants must
17 file a construction mitigation and restoration plan with ACC Docket
18 Control. Applicants shall, within one year of completion of the Project,
19 rehabilitate to its original state any area disturbed by construction of the
20 Project, except for any road that may be necessary to access the
21 transmission lines for maintenance and repair.

22 The goals of the Plan will be to:

- 23
- 24 • Avoid impacts where practical:
 - 25 • Where impacts are unavoidable, minimize impacts; and
- 26

- 1 • Focus on site preparation to facilitate natural processes of
2 revegetation.

3 Other key elements of the Plan are to:

- 4 • Emphasize final site preparation to encourage natural
5 revegetation:
6
7 • Avoid (*i.e.*, reserve), where practical, mature native trees:
8
9 • Stipulate a maximum construction corridor width:
10
11 • Preserve topsoil and plant materials from the right-of-way before
12 grading, and respread over the right-of-way after construction is
13 complete;
14
15 • Imprint the restored right-of-way to provide indentations to catch
16 seed and water;
17
18 • Implement best management practices to protect the soil;
19
20 • Apply restoration methods that have been shown to work in the
21 desert environment;
22
23 • Prevent the spread of noxious weeds or other undesirable species;
24 and
25 • Apply methods to discourage unauthorized off-highway-vehicle
26 (OHV) use of right-of-way.

27 15. In connection with the Western Systems Coordinating Council review
28 process, TEP shall provide to the ACC Utilities Division requested

1 technical information regarding any interconnection plans between TEP
2 and CFE.

3 14. TEP shall notify the ACC Utilities Division, within thirty (30) days of
4 execution, of the existence of any agreement between TEP and CFE and
5 shall provide any technical studies performed to investigate the
6 interconnection between TEP and CFE.

7 15. Applicants shall file with the ACC, in Docket no. L-00000C-01-0111; and
8 L-00000F-01-0111, a copy of the federal Environmental Impact
9 Statement ("EIS") and associated Records of Decision, when completed,
10 for the Project.

11 16. Applicants shall comply with the recommendations of the EIS.

12 17. This authorization to construct the Project will expire three years from the
13 date the Certificate of Environmental Compatibility is approved by the
14 ACC. Applicants shall have the right to apply to the ACC for an
15 extension of this time limitation.

16 18. All transmission structures shall be placed a minimum of 100 feet from the
17 edge of existing gas pipeline right of way.

18 19. Common structures shall not be used to double circuit the new 115 kV
19 transmission line approved herein with Citizens' existing 115 kV
20 transmission line.

21 20. Distribution substation feeder tie lines shall not be attached to structures
22 supporting the 115 kV lines approved herein. Applicants or their assigns
23

1 may apply to the ACC for a waiver of this condition in the event of future
2 system expansion.

3 21. Citizens shall make necessary systems improvements to ensure continuity
4 of service in the event of an outage on the new 115 kV transmission line
5 approved herein and shall submit system improvement plans to the ACC
6 Utilities Division six months from the date this Certificate of
7 Environmental Compatibility is approved by the ACC.

8 22. Applicants shall participate as a consulting party with the lead federal
9 agency, the State Historic Preservation Office ("SHPO"), and the state
10 and federal land managing agencies in the federal compliance process (*i.e.*,
11 36 C.F.R. 800) to reach a finding of the effect and to resolve adverse
12 effects, if any.

13 23. Should federal involvement in any part or all of this project be removed
14 or not occur, the Applicants shall continue to consult with SHPO in the
15 state compliance process to reach a determination of impact and resolve
16 impacts, if any.

17 24. The Applicants shall ensure consultation with Indian tribes regarding the
18 potential impacts to historic properties, particularly traditional cultural
19 places, that may be present within, or adjacent to, the proposed corridor,
20 and resolve adverse effects, if any. Such consultation shall be done in a
21 sensitive manner respectful of tribal sovereignty and concerns regarding
22 confidentiality.
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1 25. The Applicants shall include in the geographic area affected by the project
2 (i.e., area of potential effect), the final right-of-way and buffer zone, new
3 and existing access roads, material source pits (if any), and equipment
4 staging areas.

5 26. The Applicants shall sponsor the necessary studies to complete the
6 historical site identification effort as part of the federal or state
7 compliance process. This may include a cultural resources survey,
8 archaeological testing, or ethnographic study performed under the
9 direction of professionals that meet the Secretary of the Interior's
10 qualification standards and permitting requirements of the appropriate
11 land-managing entities.
12

13 27. If historic property cannot be avoided, Applicants shall sponsor the
14 necessary studies or take the appropriate actions to lessen or mitigate the
15 impacts as part of the federal or state compliance process. This may
16 include archaeological data recovery (i.e., excavations), archival research
17 and structure documentation.

18 28. After construction, Applicants, in conjunction with the land-managing
19 agency, if any, shall allow Arizona Site Stewards, a volunteer-staffed
20 SHPO program, to periodically inspect the sites present within the
21 corridor for vandalism or damage.
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1
2 GRANTED this 29th day of October 2001.

3 ARIZONA POWER PLANT AND
4 TRANSMISSION LINE SITING COMMITTEE

5 By: Laurie A Woodall
6 LAURIE A. WOODALL
7 Chairman
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DECISION NO. 64356

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **MARC SPITZER**

Chairman

3 **WILLIAM A. MUNDELL**

Commissioner

4 **JEFF HATCH-MILLER**

Commissioner

5 **MIKE GLEASON**

Commissioner

6 **KRISTIN K. MAYES**

Commissioner

Arizona Corporation Commission

DOCKETED

DEC 09 2003

DOCKETED BY

nr

8 IN THE MATTER OF SERVICE QUALITY ISSUES,
9 ANALYSIS OF TRANSMISSION ALTERNATIVES
10 AND PROPOSED PLAN OF ACTION IN THE SANTA
11 CRUZ ELECTRIC DIVISION OF CITIZENS
UTILITIES COMPANY (NOW THE SANTA CRUZ
DIVISION OF UNISOURCE ELECTRIC)

DOCKET NO. E-01032A-99-0401

DECISION NO. **66615**

ORDER

13 Open Meeting

December 2 and 3, 2003

14 Phoenix, Arizona

15 BY THE COMMISSION:

16 **FINDINGS OF FACT**

17 1. In Decision No. 62011 (November 2, 1999), the Commission approved a Settlement
18 Agreement between Citizens Communications Company ("Citizens") and Staff of the Utilities
19 Division ("Staff") which mandated the construction of a second transmission line to Nogales,
20 Arizona by December 31, 2003. The purpose of the second transmission line is to improve the
21 reliability of service to Citizens' customers in Santa Cruz County. The Settlement Agreement states
22 that Citizens would pay a penalty of \$30,000 per month for each full month of delay in the
23 construction after December 31, 2003. The Settlement Agreement also allows for Citizens to file for a
24 delay in the construction date and/or the waiver of the penalty no later than December 31, 2003.

25 2. In Decision No. 64356 (January 15, 2002), the Commission granted Joint Applicants
26 Tucson Electric Power Company ("TEP") and Citizens a Certificate of Environmental Compatibility
27 ("CEC") to construct the proposed Gateway 345 kV and 115 kV Transmission Project ("Gateway
28 Project") for the preferred western route, which had been granted by the Arizona Power Plant and

1 Transmission Line Siting Committee ("Committee"). The Gateway Project incorporated the second
2 transmission line required by the Commission in Decision 62011. Need for the Gateway Project was
3 established in that docket.

4 3. Staff testified as to the need for the second transmission line in both proceedings
5 (Docket Nos. E-01032A-99-0401 and L-00000C-01-0111/L-00000F-01-0111). Customers of
6 Citizens in Santa Cruz County had been experiencing more outages over a greater period of time such
7 that construction of a second transmission line is essential in order for an acceptable quality of
8 service to be achieved. Staff testified that continuity of service could not be assured for residents of
9 Santa Cruz County as long as a radial transmission line is the sole means of connecting Citizens'
10 Santa Cruz Electric Division Facilities to the western electric grid. During the hearings under Docket
11 No. L-00000C-01-0111/L-00000F-01-0111, Citizens offered a load forecast as exhibit RAC-2 and
12 testified that Santa Cruz County load could exceed the 60 MW rating of the existing 115 kV line as
13 early as the summer of 2003.

14 4. A second transmission line to Citizens' electric service area is required and is the only
15 means to resolve the service reliability problem to Santa Cruz County.

16 5. The Gateway Project approved in Decision No. 64356 addresses the service reliability
17 problem in Santa Cruz County and offers added benefits, such as improved reliability with an
18 additional 345 kV transmission line and an interconnection with Mexico.

19 6. On August 5, 2003, TEP and Citizens filed a Joint Application for Delay of the In-
20 Service Deadline or, in the Alternative, Waiver of Penalties and For Other Appropriate Relief ("Joint
21 Application") under this Docket. The Joint Application requests for a delay in the in-service date of
22 the second transmission line from December 31, 2003, and a waiver in the penalty provision of the
23 Settlement Agreement approved in Decision 62011. The reasons for the delay cited in the Joint
24 Application are to obtain the required approvals from federal agencies. The Joint Application states
25 that because the western route approved by the Commission in Decision No. 64356 crosses a
26 substantial amount of federal land, including portions of the Coronado National Forest, the approval
27 of a land-use plan amendment for U.S. Forest Service lands and a right-of-way permit from the U.S.
28 Forest Service are required. Furthermore a Final Environmental Impact Statement ("EIS") is also

1 required. The federal agencies involved in approving the Gateway Project include the Department of
2 Energy ("DOE"), the Bureau of Land Management ("BLM"), the U.S. Forest Service ("USFS"), and
3 the US International Boundary Water Commission ("USIBWC")..

4 7. Substantial efforts have been made by TEP and Citizens to construct the Gateway
5 Project since receiving a CEC from the Commission. These efforts include, but are not limited to, (1)
6 substation design and site work; (2) design of the 115 kV and 345 kV interconnections; and (3)
7 preliminary engineering, routing and environmental work for the lines and contacts with landowners
8 regarding surveying right of way and easement paths and acquisition.

9 8. TEP and Citizens cite that the delays in the federal EIS process are beyond their
10 control. The federal EIS process began in August, 2000. However, the federal EIS efforts were
11 impacted by numerous local and national events, including, but not limited to the September 11, 2001
12 terrorist attacks, the anthrax scare and the forest fires, which lead to the closing of the Coronado
13 National Forest in 2002 and a competing Public Service Company of New Mexico transmission
14 project. The above circumstances adversely impacted the federal EIS process and contributed to
15 delays for the Gateway Project.

16 9. On October 10, 2003, TEP and UniSource Electric, Inc. ("UNS Electric") filed their
17 supplement to the Joint Application. Citizens sold its electric assets to UniSource Energy
18 Corporation, which then formed UNS Electric. Unisource Energy Corporation is also the parent
19 holding company for TEP. The CEC for Citizens has since been transferred to UNS Electric. The
20 supplement proposes to provide short-term relief until the second transmission line is constructed and
21 becomes operational by (1) installing 25 MVAR capacitor banks on the 115 kV system to support
22 system voltage in the Nogales area and (2) installing an emergency tie between TEP's existing 46 kV
23 line and the Kantor substation. TEP claims these two actions when coupled with operation of the
24 Valencia generating units in Nogales are expected to enable service restoration capability to 70 MW
25 of load in Santa Cruz County following a transmission line outage. The existing transmission line is
26 currently rated at 60 MW.

27 10. Staff believes the improvements proposed by TEP and UNS Electric are needed and
28 would likely be required even with the addition of the second line to Nogales. While the

1 improvements will be able to serve load in excess of 60 MW without relying on the Valencia
2 generating units, the improvements will not obviate the interruption of service to Santa Cruz County
3 when the outage of the existing transmission line occurs.

4 11. The Settlement Agreement approved in Decision No. 62011 committed Citizens to
5 Plan of Action as filed by Citizens on April 15, 1999, and supplemented on May 7 and July 13, 1999
6 and incorporating Staff recommendations contained in pre-filed testimony of those proceedings. The
7 Plan of Action included construction, operation and maintenance of new distribution infrastructure,
8 improved restoration of service following transmission outages by use of newly developed restorative
9 switching protocol, maintaining a distribution system operation center with remote supervisory
10 control and data acquisition ("SCADA") capability and placing the Valencia generating units in
11 standby mode during storm season.

12 12. Staff believes that UniSource Energy Corporation's acquisition of Citizens' Santa
13 Cruz electric assets will offer operational improvements by relying on the operational expertise and
14 close proximity of field personnel from TEP. Staff recommends that TEP and UNS Electric update
15 the Plan of Action to take full advantage of such opportunities per Decision No. 66028. Staff
16 recommends that TEP and UNS Electric submit an updated "Outage Response Plan" within ninety
17 (90) days of the effective date of this order that addresses the following:

- 18 a. Can Citizens operating procedures be improved to shorten the restoration time
19 for transmission outage events utilizing TEP's operations center and field
20 personnel?
- 21 b. Are any of the following improvements cost effective as interim restoration of
22 service solutions to the construction of a second transmission line?
- 23 i. A limited number of automated or remote controlled distribution feeder ties
24 between substations.
- 25 ii. Improved remote electronic dispatch control capability of the Valencia
26 generator or improved generator controls.
- 27 c. What refinements are appropriate in Citizens' RAC-2 peak load forecast?
28 Please define the annual hours of exposure when load is forecast to exceed the
capacity of the existing transmission line.
- d. Is the proposed interconnection with Mexico at the Gateway substation an
interim service restoration solution for delay of the proposed South to Gateway
transmission line through the Coronado National Forest?

- e. How much emergency service is available from TEP via a Kantor feeder tied to TEP's 46 kV line?

13. Staff further recommends that Staff would then file a subsequent report commenting on the sufficiency of the updated Outage Response Plan within thirty (30) days of the updated Outage Response Plan being filed by TEP and UNS Electric.

14. Staff recommends that the in-service/need date for the second transmission line required by Decision No. 62011 not be changed. The fact, that the required in-service date is not going to be achieved does not negate the need for the line.

15. Staff further recommends that the penalties that would become effective January 1, 2004 be waived until June 1, 2004. Staff believes TEP and UNS Electric have made substantial efforts to construct the second transmission line by December 31, 2003. Furthermore, Staff believes the reasons for the delay are attributable to the circumstances that impacted the federal EIS and permitting processes and obtaining all of the requisite federal approvals. Staff recommends a waiver until June 1, 2004, so that TEP and UNS Electric have sufficient time to investigate, budget and update the Citizens Plan of Action to reflect the added value of their operational expertise and personnel, as well as affording an opportunity for the DOE to publish the Final EIS in the Federal Register reflecting the recommended action of each of the cooperating federal agencies.

16. Staff further recommends that prior to June 1, 2004, this matter appear on a subsequent open meeting so that the Commission could (1) determine sufficiency of the TEP and UNS Electric updated Outage Response Plan; (2) receive updates on the federal process; (3) address further waiving of the penalty for a prescribed period beyond June 1, 2004; and (4) establish a process for (a) reviewing the TEP and UNS Electric Outage Response Plan such that it remains sufficient, (b) providing further updates on the federal process, and (c) addressing future waivers of the penalty beyond the prescribed period.

17. It is reasonable to require TEP and UNS Electric to submit the updated "Critical Response Plan" described in Findings of Fact No. 12 within sixty (60) days of the effective date of this order.

...

CONCLUSIONS OF LAW

1. TEP and UNS Electric are public service corporations within the meaning of Article XV, Section 2 of the Arizona Constitution.

2. The Commission has jurisdiction over TEP and UNS Electric and over the subject matter of this docket.

3. Staff's recommendations in Findings of Fact Nos. 12, 13, 14, 15 and 16 are reasonable, in the public interest and should be adopted.

4. It is reasonable to require TEP and UNS Electric to submit the updated "Critical Response Plan" described in Findings of Fact No. 12 within sixty (60) days of the effective date of this order.

5. There is good cause justifying waiver of the \$30,000 per month penalty included in the Settlement Agreement approved in Decision No. 62011 until June 1, 2004, pending an updated Outage Response Plan.

ORDER

IT IS THEREFORE ORDERED that the \$30,000 per month penalty in the Settlement Agreement that was approved in Decision No. 62011 shall be waived until June 1, 2004.

IT IS FURTHER ORDERED that the in-service/need date for the second transmission line shall remain December 31, 2003.

IT IS FURTHER ORDERED that TEP and UNS Electric shall submit an updated "Outage Response Plan" within sixty (60) days of the effective date of this order that addresses the following:

- a. Can Citizens operating procedures be improved to shorten the restoration time for transmission outage events utilizing TEP's operations center and field personnel?
- b. Are any of the following improvements cost effective as interim restoration of service solutions to the construction of a second transmission line?
 - i. A limited number of automated or remote controlled distribution feeder ties between substations.
 - ii. Improved remote economic dispatch control capability of the Valencia generator or improved generator controls.
- c. What refinements are appropriate in Citizens' RAC-2 peak load forecast? Please define the annual hours of exposure when the load is forecast to exceed the capacity of the existing transmission line.

- 1 d. Is the proposed interconnection with Mexico at the Gateway substation an interim
2 service restoration solution for delay of the proposed South to Gateway
3 transmission line through the Coronado National Forest?
4 e. How much emergency service is available from TEP via a Kantor feeder tied to
5 TEP's 46 kV line?

6 IT IS FURTHER ORDERED that Staff of the Utilities Division shall file a Report within
7 thirty (30) days of the filing of the updated Outage Response Plan by TEP and UNS Electric, which
8 comments on the sufficiency of the updated Outage Response Plan.
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1 IT IS FURTHER ORDERED that prior to June 1, 2004, that this matter be placed on a
2 subsequent open meeting be held in order to (1) determine sufficiency of the TEP and UNS Electric
3 updated Outage Response Plan; (2) receive updates on the federal process; (3) address further waiver
4 of the penalty for a prescribed period beyond June 1, 2004; and (4) establish a process for (a)
5 reviewing the TEP and UNS Electric Outage Response Plan such that it remains sufficient, (b)
6 providing further updates on the federal process, and (c) addressing future waivers of the penalty
7 beyond the prescribed period.

8 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

9
10 BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN

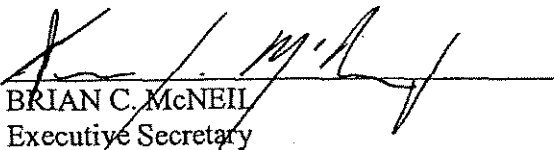
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COMMISSIONER

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COMMISSIONER

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COMMISSIONER

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COMMISSIONER

17 IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive
18 Secretary of the Arizona Corporation Commission, have
19 hereunto, set my hand and caused the official seal of this
20 Commission to be affixed at the Capitol, in the City of Phoenix,
21 this 9th day of December, 2003.

22 
BRIAN C. McNEIL
Executive Secretary

23 DISSENT: _____

24 DISSENT: _____

25
26 EGJ:JDS:lhv\JDG

1 SERVICE LIST FOR: CITIZENS UTILITIES COMPANY
2 DOCKET NO. E-01032A-99-0401

3 Mr. Raymond S. Heyman
4 Roshka Heyman & Dewulf, PC
5 One Arizona Center
6 400 East Van Buren Street, Suite 800
7 Phoenix, Arizona 85004

8 Mr. Michael M. Grant
9 Gallagher & Kennedy, P.A.
10 2575 East Camelback Road
11 Phoenix, Arizona 85016-9225

12 Mr. Walter W. Meek
13 Arizona Utility Investors Association
14 2100 North Central Avenue, Suite 210
15 Phoenix, Arizona 85004

16 Mr. Hugh Holub
17 Nogales City Attorney
18 777 North Grand Avenue
19 Nogales, Arizona 85621

20 Mr. Lawrence Robertson
21 Munger Chadwick, PLC
22 333 North Wilmot Road, Suite 300
23 Tucson, Arizona 85711

24 Mr. Stephen Ahearn
25 Residential Utility Consumer Office
26 1110 West Washington Street, Suite 220
27 Phoenix, Arizona 85007

28 Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Mr. Christopher C. Kempley
Chief Counsel
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

RECEIVED
MEMORANDUM

2004 MAY 27 P 2:55

TO: Docket Control

FROM: Ernest G. Johnson
Director
Utilities Division

AZ CORP COMMISSION
DOCUMENT CONTROL



DATE: May 27, 2004

RE: STAFF REPORT ANALYZING TUCSON ELECTRIC POWER AND UNISOURCE ENERGY SERVICES RESPONSE TO DECISION NO. 66615 REGARDING THE TEP AND CITIZENS COMMUNICATION COMPANY JOINT APPLICATION FOR DELAY OF IN-SERVICE DATE OR WAIVER OF PENALTIES (DOCKET NO. E-01032A-99-0401)

Attached is an Arizona Corporation Commission Staff ("Staff") Report regarding the sufficiency of the Tucson Electric Power Company ("TEP") and UniSource Energy Services ("UES") response to Commission Decision No. 66615. This report supplements and augments a March 11, 2004 Staff Report and considers both the February 9, 2004 filed TEP and UES response and their April 30, 2004 supplemental response with an associated May 3, 2004 errata.

The April 30, 2004 filed TEP and UES supplemental response satisfactorily responds to deficiencies noted by Staff in its March 11, 2004 Staff Report regarding the companies' prior response to questions raised by the Commission in Decision No. 66615. The TEP and UES supplemental response also satisfactorily:

1. Updates the power plant operations procedure and the transmission service restoration procedures previously approved as elements of Citizens' Outage Response Plan, and
2. Modifies the UES Switching Procedures by refining the expected time required to restore service following a transmission line outage with the proposed 46 kV TEP emergency feeder tie to Kantor and all proposed remote controlled transmission and/or distribution feeder switching improvements.

It is Staff's opinion that TEP and UES have taken all reasonable steps in their Outage Response Plan to improve their ability to restore service following an existing transmission line outage. On this basis, Staff finds the TEP and UES Outage Response Plan to be sufficient. However, the Commission ordered UES' predecessor, Citizens, to build facilities that assure electric customers in Santa Cruz County have reliable service founded on the principle of **continuity** of service for outage of a transmission line as opposed to restoration of service. This requirement can only be achieved via a second transmission line to Nogales. Even with the new transmission line, a Reliability Must Run ("RMR") condition is expected to exist in Santa Cruz County by the summer of 2008 per the new UES forecast. In fact, the RMR operation of the Valencia generating units becomes inadequate when the Santa Cruz County load reaches

approximately 75 MW. According to the UES forecast (Exhibit 2) the 75 MW load level may be experienced by the summer of 2010.

Therefore, Staff recommends that this matter appear on an open meeting so the Commission may make a determination that the TEP and UES updated Outage Response Plan for Santa Cruz County is sufficient. Staff further recommends the Commission approve and order the following items:

1. Continued waiver of penalties, first authorized by Decision No. 66615, retroactive to June 1, 2004, conditioned upon achievement of the following improvements solely under the control of the applicants:
 - a. UES documented construction completion and operation of 25 megavolt-amperes reactive ("MVAR") of new shunt capacitors dispersed among feeders originating from each UES distribution substation in Santa Cruz County by July 1, 2004.
 - b. TEP demonstrated remote control startup of Valencia generating units and synchronization with the Western Interconnection transmission system by July 1, 2004.
 - c. TEP demonstrated remote emergency restorative switching capability to serve Kantor and Cañez substations from Canoa and remote switching for service restoration to Sonoita and Valencia substations via Valencia generators by July 1, 2004.
 - d. TEP documented construction completion of a 46 kV emergency tie line, of at least 20 megawatt ("MW") capacity, between the TEP Canoa Substation and the UES Kantor Substation. (\$1.9 million by August 31, 2004)
 - e. TEP documented completion of GIS data conversion to Smallworld (July 2004), STORMS (October 2004), and Outage Management System (December 2004) software by January 1, 2005.
2. Waiver of penalties after August 1, 2004 be further conditioned upon completion of the following processes which are not solely under the control of the applicants:
 - a. The annual TEP and UES self-certification letter due to the Commission on August 1 per Certificate of Environmental Compatibility ("CEC") Condition 29 must include:
 - i. Documentation by TEP and UES of how they have expended every reasonable effort to expedite the timely resolution of the Federal EIS and permitting processes.
 - ii. Documentation by TEP and UES of how they have expended every reasonable effort to expedite and timely obtain from all state, county and

local governmental agencies, especially the State Land Department, all required approvals and permits necessary to construct the project as defined in Condition 1 of their CEC.

- b. Given that the second transmission line to Nogales will not be constructed by January 15, 2005, the Commission expects TEP and UES to seek an extension of time for their CEC before it expires. According to Condition 17 of the CEC granted by Decision No. 64356, TEP and UES authorization to construct the subject transmission facilities expires three years from the date (January 15, 2002) the CEC was approved by the Commission.
 - c. Any TEP and UES request for extension of time of their CEC granted by Decision No. 64356 must be accompanied by:
 - i. Filing of a completed Federal Final EIS and associated Records of Decision from the various Federal Agencies with the Commission in accordance with Condition 15 of their CEC, and
 - ii. Revised project completion dates reflecting the outcome of the federal, state and local permitting processes.
 3. Waiver of the storm season spinning reserve requirement of Valencia generating units approved by Decision No. 62011 shall become effective once the above conditions 1.a through 1.d are all met.
 4. Waiver of monthly black start testing of turbines once they are tested in accordance with Southwest Reserve Sharing Group ("SRSG") requirements and are found to be in compliance as documented by correspondence from SRSG and continue to be so tested.
 5. TEP and UES shall commence data collection and retention to document annual distribution system reliability indices System Average Interruption Frequency Index ("SAIFI") System Average Interruption Duration Index ("SAIDI") and Customer Average Interruption Duration Index ("CAIDI") as defined by Institute of Electrical and Electronic Engineers ("IEEE") 1366, on an on-going basis for each distribution feeder and distribution substation. Such data must also be aggregated to establish the distribution system reliability indices for each division or geographical sub-region of their respective service areas. This annual reliability data is to be made available upon request by Staff.
 6. TEP and UES shall document, upon request of Commission Staff, enforcement of its customer power factor requirements and all system improvements made to assure appropriate system voltage control within Western Electricity Coordinating Council ("WECC") and National Electric Safety Code ("NESC") requirements.

7. RMR Studies are to be performed and solutions necessary to resolve system RMR deficiencies currently forecast for 2008 are to be determined and reported as part of the TEP and UES ten year transmission plan by January 31, 2005.

The above recommendations presume an on-going process for continued Commission oversight of TEP and UES compliance with its order to construct a second transmission line to serve electric customers in Santa Cruz County and the City of Nogales. The proposed process is founded on the principle that a waiver of penalty granted to TEP and UES in Decision No. 66615 will continue in effect as long as TEP and UES comply with the conditions recommended above. Compliance with conditions requiring demonstration of construction and operation of new facilities will be verified by the Utilities Division Engineering Staff. Compliance with conditions requiring documentation by TEP and UES will be determined by the Utilities Division Compliance Office. TEP or UES failure to satisfactorily comply with any of the above recommended conditions may warrant the Commission initiating new proceedings to rescind the waiver of penalties.

EGJ:JDS:rdp

Originator: Jerry D. Smith

Attachment: *Original and thirteen copies*

Service List for:

TUCSON ELECTRIC POWER COMPANY and UNISOURCE ENERGY SERVICES

Docket No. E-01032A-99-0401

Mr. Raymond S. Heyman
Roshka Heyman & DeWulf, PC
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004

Mr. Michael M. Grant
Gallagher & Kennedy, P.A.
2575 East Camelback Road
Phoenix, Arizona 85016-9225

Mr. Walter W. Meek
Arizona Utility Investors Association
2100 North Central Avenue, Suite 210
Phoenix, Arizona 85004

Mr. Hugh Holub
Nogales City Attorney
777 North Grand Avenue
Nogales, Arizona 85621

Mr. Lawrence V. Robertson
Munger Chadwick, PLC
333 North Wilmot Road, Suite 300
Tucson, Arizona 85711

Mr. Stephen Ahearn
Residential Utility Consumer Office
1110 West Washington Street, Suite 220
Phoenix, Arizona 85007

Christopher C. Kempley, Esq., Chief Counsel
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ernest G. Johnson, Esq., Director
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Lyn Farmer, Esq., Chief Administrative Law Judge
Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007